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IN THE

Supreme Court of the United States

October Term 1967

No. 615

NORINE PAULAITIS
Plaintiff-Appellee

vs

EDWARD PAULAITIS
Defendant-Appellant

APPEAL FROM THE SUPREME COURT
OF ILLINOIS

JURISDICTIONAL STATEMENT

EDWARD PAULAITIS
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Chicago, Illinois

Appearing pro-se

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

No._____

NORINE PAULAITIS, Plaintiff Appellee

v.

EDWARD PAULAITIS, Defendant Appellant

APPEAL FROM THE SUPREME COURT OF ILLINOIS
Case 40552

which appealed from

The Appellate Court of Illinois
First District Case 51017

which appealed from

The Circuit Court of Cook County
Chancery-Divorce Division
Case 65 CH 2830

JUDGE HYMAN FELDMAN - Presiding

JURISDICTIONAL STATEMENT

OPINIONS BELOW

The Order appealed from by the Defendant is the Order of the Circuit Court of Cook County, State of Illinois dated September 7, 1965 which enrolls a Florida divorce decree as an Illinois decree. This Order grants the prayer of the Plaintiff's "Complaint to Establish or Enroll a Decree of a Sister-State and for other Relief". This Order is reproduced in Appendix A.

On September 14, 1965 the HONORABLE JUDGE HYMAN FELDMAN entered an Order striking Defendant-Appellant's Petition for a rehearing from the call. This Order is reproduced in Appendix B.

The Mandate of the Appellate Court of Illinois First District dismissing Defendant's Appeal is reproduced in Appendix B. The peculiar circumstances concerning this Mandate are covered in the following text.

In the Supreme Court of Illinois Defendant-Appellant filed a "Petition for Appeal as a Matter of Right" under Rule 315 of the Supreme Court of Illinois as contrasted to the other possible alternative of petitioning for Leave to Appeal wherein the Supreme Court of Illinois Rule 315 states "A petition for Leave to Appeal to the Supreme Court from the Appellate Court may be filed in any case not appealable from the Appellate Court as a matter of right". The pre-printed

form Mandate issued by the Supreme Court on June 8, 1967 which relates to proceedings of May 17, 1967 speaks of Defendant-Appellant's appeal in pre-printed form as a "Petition for Leave to Appeal from the Appellate Court." and in its pre-printed phrasing states:

> "And now on this day the Court having duly considered the Petition for Leave to Appeal herein and being now fully advised of and concerning the premises, doth over-rule and denies Leave to Appeal herein:
>
> And it is further considered by the Court that said Respondent recover of and from the said Petitioner costs by HER in this behalf expended, to be taxed, and that SHE have execution thereof."

The only words typed in in the above are the words "HER" and "SHE", the rest is a pre-printed form.

This Mandate not reproduced in the Appendix but can be found as Page 64B in the Supreme Court of Illinois Record submitted to this Court.

Also on Page 65B of the Record, with reference to Plaintiff Respondent's Petition to dismiss or deny Defendant-Appellant's Appeal, of the Supreme Court of Illinois stated in typewritten form that:

"the Court having duly considered the Motion by Respondent to strike and dismiss Petition for Leave to Appeal or, in the alternative that that Petition be denied, and being now fully advised of and concerning the premises;

It is hereby ordered that the Motion by Respondent to strike and dismiss Petition for Leave to Appeal be, and the same is, denied."

Although it would appear, at first glance, from the above that Plaintiff-Respondent's Petition was denied, the total effect is that Respondent's prayer that "in the alternative that Petition be denied" was in effect allowed.

JURISDICTIONAL GROUNDS

The jurisdiction of the Supreme Court of the United States is invoked because a fundamental United States Constitutional question is involved- the right of a man to a hearing before judgment is rendered is an inviolable right granted to a citizen of the United States by the United States Constitution, has been consistently and thoroughly supported by the United States Supreme Court, and cannot be denied. The State Courts of Illinois denied Defendant the right to be heard in a manner so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the United States Supreme Court's power of supervision. Denying Defendant's original request and subsequent appeals for the right to be heard before judgment is rendered is an act which is wholly unjust and reprehensible and violates the fundamental law of the land. This issue was raised immediately at the start of all proceedings and remains the fundamental issue involved herein

The Supreme Court of the United States has jurisdiction under USC Section 1257 (3) which provides that the Supreme Court of the United States may review a case passed on by the highest court of a state in which a decision could be had where any right is claimed under the Constitution of the United States. The

right claimed by the Defendant from the beginning of all proceedings is the right to a hearing before judgment is rendered is a fundamental right under the DUE PROCESS clause of the United States Constitution.

The Supreme Court has jurisdiction under 280 SC Section 1257 (1) in the sense that the validity of the Due Process of Law provisions of the Constitution of the United States is being denied by the overt process of disregarding a most clearly established fundamental right under the Constitution of the United States.

The Supreme Court has jurisdiction by virtue of the Supreme Court's powers of supervision of the lower courts to correct the abuses of the lower courts. They have in this case so blatently departed from the accepted and usual course of judicial proceedings by denying a citizen a hearing before judgment and then disregarded basic irrefutable evidence of this denial by avoiding the basic issued reiterated on the subsequent appeals by the Defendant-Appellant involving his basic Constitutional rights..

As stated in the Appeal to the United States Supreme Court filed in the Supreme Court of the State of Illinois, Defendant cannot now get justice in any other manner except by an Appeal to the United States Supreme Court because the members of the lower courts are involved in ignoring and thereby suppressing the truth by disre-

garding the evidence itself with intent to make it appear this Defendant has no case whereas in fact they are covering up an unwarranted unconstitutional act of its members. This action reflects upon the character of segments of the court and the attorneys of the State of Illinois. Rather than face the truth, it would appear that the courts have decided one man, however right, and regardless to the damage to his character, is expendable to preserve the outward appearance of respectability of the courts and its legal members. For the evidence presented by the Defendant is so simple and basically clear to establish that he was denied a hearing that no one could mistake it except by deliberate intent or disregard. This statement would appear in the face of it to be so unbelievable that most just men would question the man who makes it - yet penetrating the mask of superficial respectability will show that Defendant-Appellant is being wilfully denied a fundamental right to be heard.

The issues thus raised touches upon the very roots of man's most fundamental right under the United States Constitution. The act of Plaintiff's attorney, the Judge disregarding Defendant's right to be heard and the subsequent perhaps ill advised or influenced denial of the Defendant's fundamental right to be heard offends the cannons and decency which all true Americans cherish. The Defendant cannot now turn for help to anyone but to the Supreme Court of the United States and

to all just men everywhere.

The question presented by this Appeal is substantial. It affects the ability of all citizens of the State of Illinois to obtain a most fundamental right under the Due Process of Law provision of the United States Constitution- THE RIGHT TO BE HEARD BEFORE JUDGMENT IS RENDERED. It affects the right of an individual appearing pro-se to equal treatment under the law without regard to his financial ability to obtain legal assistance to represent him. If a man can be deprived of a hearing to defend his position under any circumstance, he loses the most basic fundamental right of an individual in this country and the courts in effect have the power to destroy him.

The United States Supreme Court, under these circumstances, certainly has jurisdiction as guardian of its citizens' Constitutional rights which all Americans cherish. Defendant respectfully submits that the magnitude of this injustice is so gross that it not only requires correction of the abuses perpetrated by Plaintiff's counsel acting in concert with a Judge of the courts, it needs the supervisory powers of the United States Supreme Court to brand the act as totally unworthy of just men and requires action to prevent its spread and re-occurrence.

QUESTION PRESENTED FOR REVIEW

The basic question presented for review is as follows:

> Is it fundamental to Due Process of Law under the United States Constitution the courts must provide a hearing when it is requested by the Defendant? Is not a court's act of granting the prayer of the Complaint without having the allegations of Complaint proven and denying the Defendant the right to be heard before judgment is rendered an act which is wholly unjust and reprehensible in violation of Defendant's Constitutional rights?

MANNER IN WHICH FEDERAL QUESTION WAS RAISED INITIALLY

The Constitutional right to be heard before judgment is rendered was, and is, the sole issue of Defendant's Appeal and was raised at the very beginning of the proceedings when the lowest court entered an Order in which it was decreed that Plaintiff's prayer in her Complaint is granted ignoring Defendant's strenuous objections that he wanted a hearing before judgment was entered. Defendant's very first Brief on Appeal cites the Due Process of Law provision of the United States Constitution Article V as amended in support of his claim for the right to be heard before judgment. (Ill Sup Ct Record page 56A)

The Constitutional question was therefore not only raised in a timely fashion; it is the only question which was, and is, the sole issue of the proceedings and all of Defendant's appeals. All the courts, todate, have avoided any reference to this fundamental issue raised by the Defendant.

STATEMENT OF THE CASE

On May 22, 1965 Plaintiff, through her attorneys, filed a "Complaint to establish or enroll a Decree of a Sister-State and for other relief" in the Circuit Court of Cook County, in the State of Illinois (Case No. 65-CH-2830). The Complaint (Ckt Ct Record p 3) alleges that a divorce decree was entered in the State of Florida, that Defendant is NOW a resident of Illinois (as if to imply that he was not at the time of the divorce) that there is "need to establish said decree in Illinois to enforce the payment of alimony and child support, that "SAID DEFENDANT IS WELL ABLE TO PERFORM SAID DECREE, and to make payment of alimony and child support as provided for under the terms of the aforesaid Decree for Divorce" and that "Plaintiff and the minor children of the parties hereto have need for counsel to represent them and ARE UNABLE TO PAY ADEQUATE FEES FOR THEIR REPRESENTATION IN THIS CAUSE". (emphasis added by Defendant)

This Complaint indicates that it was subscribed and sworn to on oath by the Plaintiff before a notary in the State of Florida on April 28, 1965.

Stamped in bold one-inch letters by the court's clerk across the top face of this Complaint are the wods "FOREIGN DECREE".

Defendant was duly served with a summons on June 1, 1965 and filed his

appearance pro-se on July 2, 1965. On August 25, 1965 Plaintiff's attorneys served Notice that they would appear in court before the HONORABLE JUDGE HYMAN FELDMAN on August 31, 1965 to present a Motion to enroll the Florida decree in the State of Illinois and "for such other relief as prayed for in the Complaint".

On August 31, 1965 Defendant filed an ANSWER (Ckt Ct Record p 22) denying all the allegations of the Complaint, appeared before the court and requested a continuance to employ counsel to represent him. He was given seven (7) days until September 7, 1965 which included the three (3) day Labor Day holiday period to obtain counsel.

In court seven (7) days later (September 7, 1965) the HONORABLE JUDGE HYMAN FELDMAN abruptly granted Plaintiff's Motion and entered an Order (reproduced in Appendix A) decreeing that the divorce decree of the State of Florida is "hereby established and enrolled as an Illinois decree" over Defendant's strenuous verbal objections that he wanted the case set for hearing. Defendant's objections were summarily ignored. The case was not set for trial, and the Defendant was not allowed to present contrary evidence. No testimony by witnesses was given to substantiate the allegations of the Complaint. There were no witnesses there to testify or be cross-examined. Plaintiff, Plaintiff's counsel and the Defendant were the only persons present before the court. There was only exchange of

conversation between the Judge and Plaintiff's counsel, MR. BERNARD KAUFMAN s former Mastery in Chancery of the same court. Defendant's strenuous attempts to object to the manner of proceedings were disregarded as if Defendant did not exist.

The Order (Ckt Ct Record p 27) signed by JUDGE HYMAN FELDMAN had been pre-typed PRIOR to the court appearance and was presented to the court by Plaintiff's counsel, MR. BERNARD KAUFMAN. As originally typed, the Order read:

> "...and the Defendant having been personally served with summons and having filed his appearance, BUT HAVING FAILED TO FILE AN ANSWER to the Complaint filed herein, due notice of this hearing having been served upon the Defendant, THE COURT HAVING HEARD EVIDENCE AND BEING FULLY INFORMED, (emphasis added by Defendant),
>
> IT IS DECREED AS FOLLOWS:
> That the decree of the State of Florida attached hereto and attached to the Complaint filed herein as Exhibit "A" be and the same is hereby established and enrolled as an Illinois decree."

The Order was modified by crossing out in ink the five words in the phrase "BUT HAVING FAILED TO FILE AN ANSWER" to make it read "AND ANSWERED". The remaining words were not altered. The words

"THE COURT HAVING HEARD EVIDENCE AND BEING FULLY INFORMED" were thus unaltered and therefore attested to by the Judge by his signature in spite of the fact that Defendant was not heard and was not allowed to present contrary evidence why the decree should not be entered and the allegations of the Complaint were not proven. No evidence was presented for example in support of the allegations of the Complaint that "..Defendant is well able to perform said decree". The only "evidence" consisted of a verbal repetition of the allegations by Plaintiff's counsel before the court.

This Order was presented to the Judge without allowing Defendant to read or approve, or disapprove, of it. He was abruptly handed a copy of it by Plaintiff's counsel, MR. KAUFMAN, in the hall outside of the courtroom immediately after the proceedings on a "take it or leave it" basis.

The evidence that Defendant had tried desperately to obtain a hearing is contained in the Petition for Rehearing written, notarized and filed in the same court at 3:23 P.M. of the very same day (September 7, 1965) that is within hours of the time entry of the Court Order. (Cir Ct Record p 33). It was the only means Defendant could think of to record his objections to the fact that he was being denied a hearing. Its strong language reflects Defendant's extreme frustration and anger in being denied

the right to be heard. A section of this document which was abstracted in the ABSTRACT OF RECORD as subsequently filed on an Appeal in the Appellate Court of Illinois, First District, the next higher court and which appears in the Illinois Supreme Court Record as pages 8B to 13B now on file in this Court reads in part as follows:

"I, EDWARD PAULAITIS, appearing pro-se in the above entitled cause, do hereby state as follows:

"1. That on Tuesday, August 31, 1965 a hearing was held on motion of Plaintiff for hearing on the cause pursuant to the Complaint filed in the above entitled cause.

"2. That Defendant having previously filed an appearance pro-se on the 31st day of August, 1965 requested a continuance to employ counsel to represent him, and that this request was properly granted by the court.

"3. That on September 7, 1965 Defendant appeared pro-se stating he did not as yet have counsel to represent him and that the court without hearing or having the slightest interest in Defendant's reasons for not having yet obtained counsel, proceeded on Plaintiff's Motion in a manner which Defendant claims is characteristic of a kangaroo court in which that which Defendant attempted to say in his behalf was regarded by the court as the plea of one who could not possibly say anything that was

relevant to the issues involved.

"4. That the court in the person of JUDGE HYMAN FELDMAN did not recognize that any citizen appearing pro-se could possibly be endowed by education and experience in judicial proceedings to know that the action of the court in effect represented a travesty of justice.

"5. Said JUDGE HYMAN FELDMAN summarily and without consideration of Defendant's position in a matter of seconds granted Plaintiff's attorney's Motion to enter a decree from Florida without giving Defendant any opportunity to state his defense on why the decree should not be entered and that this attitude of JUDGE HYMAN FELDMAN was one of total indifference and disdain for a citizen's capability to render an adequate defense pro-se.

"6. That Plaintiff's attorneys had previously prepared an Order which was written in anticipation that the Defendant would not file an Answer and that this Order was presented for entry modified to fit the circumstances for court approval, after what Defendant hereby terms a kangaroo session in such rapid fire fashion that Defendant could not possibly comprehend or state his objections thereto and that the Order was presented to the court without Defendant's prior reading and approval and that a copy of said Order was given to Defendant by the Plaintiff's attorney in the hall of

the Circuit Court of Cook County, summarily and abruptly, with no consideration as to whether he approved, or disapproved, and that Plaintiff's attorney did not care whether Defendant may have considered the action proper or just and that Plaintiff's attorney had no interest in Defendant's reaction on whether it could possibly reflect the actions of an intellectual, honest citizen fighting for his just rights.

****

"8. That the court in the person of JUDGE HYMAN FELDMAN injudiciously dismissed without any question, interrogations or attempt to understand the Defendant's position or his statement that the decree of the Florida's court was based on the Plaintiff's action in taking the life savings of both the Plaintiff and the Defendant which Defendant entrusted to the Plaintiff and taking these moneys in Plaintiff's own name disregarding the love and trust the Defendant had for his wife for twenty-one (21) years and that Defendant was therefore powerless by her unwarranted, vindictive attitude to enable Defendant to render any adequate defense on his behalf. These totally unwarranted and vindictive actions by the Plaintiff based on hate and vindictiveness did not leave the Defendant any means to challenge the act of the Plaintiff because of the lack of the Defendant of the

financial means to defend himself against Plaintiff's action, and that therefore the decree in Florida was entered on the part of false and unjustified pretense on the part of the Plaintiff and her attorneys.

"WHEREFORE, Defendant prays and affirms as follows:

"1. That the Order of September 7, 1965 granting that the divorce of the State of Florida be established and enrolled in the State of Illinois be vacated pending a FULL, COMPLETE AND UNABRIDGED HEARING ON ALL POINTS OF THE COMPLAINT WHICH THE DEFENDANT BY HIS ANSWER HAS DENIED BEING VALID COMPLAINTS. (Emphasis added).

"2. That the Defendant be given all the rights of an individual to defend his position in a manner which he and not the court, deems best, and that the Defendant shall be granted the right

"(a) To Defendant's right to a normal speech pattern on the part of the judiciary consistent with the Defendant's ability to comprehand the verbosity of the court's appointed officials so that the Defendant may understand and render a competent defense rather than be subjected to the rapid, verbose effusiative enunciation of legal mumbo-jumbo rendering the Defendant wholly inadequate to understand the court's motivation or position.

"(b) To subpoena witnesses on his behalf to contradict the testimony of Plaintiff, or more properly, her attorneys.

"(c) To employ a court stenographer, take testimony to be used in an appeal if necessary.

"(d) To enable the Defendant to file an Appeal in the Appellate Court and, if necessary, the Supreme Court of Illinois and the United States Supreme Court of America, to establish a new law if that is necessary to establish that a man who had done no wrong to his wife or his family cannot be the grist mill of the divorce proceedings be deprived of the rights to enjoy the most priceless possession that a man has a right to enjoy - the love and companionship of his descendants . . . ."

The Petition was sworn to on oath by the Defendant, EDWARD PAULAITIS.

A personal copy of the above Defendant's Petition for Rehearing was also sent to the HONORABLE JUDGE HYMAN FELDMAN on the same day it was filed in the Court to make certain that he was personally aware of Defendant's strenuous objections to the improper proceedings. The Court's time stamp shows Defendant's typed and notarized Petition for a Rehearing was filed in the Court at 3:23 P.M. on the same day which was within a few hours after the Order was entered.

Another seven days later (September 14, 1965) the same JUDGE HYMAN FELDMAN issued the Order (Ckt Ct Record p 39) shown in Appendix B herein which reads in part as follows:

"The Court finding that EDWARD PAUL-AITIS has not appeared to present said Petition; the Court also having received a copy of said Petition, It is hereby ordered that the Motion of EDWARD PAUL-AITIS is stricken from the call".

The Petition referred to is Defendant's Petition for Rehearing.

Defendant filed a Notice of Appeal to the Appellate Court of Illinois, First District, (Ckt Ct Record p 41) with Proof of Service on October 15, 1965 appealing from the Order of September 7, 1965 which decreed the establishment and enrollment of the decree of the State of Florida as an Illinois decree. In this Notice of Appeal Defendant states:

> "...that the decree in Florida was entered in Illinois not-withstanding Defendant-Appellant's plea before the HONORABLE JUDGE of the Circuit Court of Cook County that Defendant-Appellant should be heard...."

Defendant-Appellant prayed that the Order of September 7, 1965 be set aside allowing Defendant-Appellant to present evidence why this decree should not be entered.

A Praecipe for Record was filed on October 25, 1965. On October 19, 1965 (4 days after Defendant's Notie of Appeal had been filed with due notice being given to Plaintiff and her counsel but prior to Defendant's filing of his Praecipe for Record) Plaintiff's attorneys presented and filed a Petition before the HONORABLE JUDGE FRED SLATER, who had not been previously associated with this case and represented unto the court as follows: (Ckt Ct Record pages 49 to 51)

a. That the Florida decree was "established and enrolled as an Illinois decree on September 7, 1965.
b. That the Florida decree provides for $300.00 per month for 3 minor boys plus alimony of $50.00 per month plus $250.00 for the Florida attorneys plus $44.50 for Florida court costs.
c. That "Petitioner has expended considerable court and attorney's fees in connection with the aforementioned cause, and this petition now pending in this court",
d. That "ALTHOUGH THE DEFENDANT, EDWARD PAULAITIS, IS FULLY CAPABLE OF COMPLYING WITH THE TERMS OF THE AFORESAID DECREE, HE HAS WILFULLY AND WRONGFULLY FAILED TO DO SO, and is now in arrears in the sum of $2700.00 and as for past due child support, the sum of $450.00 as and for past due alimony and the sum of $44.50 for Plaintiff's costs expended in the Florida case".

The Petition asked the court to enter a rule against the Defendant to show cause, if any, why he should not be held in contempt of court.

With reference to Item D in this Petition, there was no testimony ever given as to Defendant-Appellant's finances or ability to pay although Plaintiff's original Complaint to enroll the Florida decree alleged that the "said Defendant is well able to perform said decree", an allegation denied by the Defendant in his Answer to the Complaint. There was no testimony of any kind ever given on this, or any other, point. Thus Plaintiff's Petition represents as a fact that which was originally alleged but never proven.

Furthermore, the Petition implies that Defendant was in arrears $3194.00. Note that although Plaintiff's prayer in her Complaint asked "for payment of arrears in child support and alimony" nothing in the court orders referred to payment of "arrears". Yet Plaintiff's Petition represented this to the court as if it were an established fact.

THE HONORABLE JUDGE SLATER signed an Order on October 19, 1965 (Ckt Ct Record p 53) entering a rule upon the Defendant to show cause why he should not be held in contempt of court and the hearing on return of said rule and other relief prayed for in the Petition was set for 26th day of October, 1965. Since the HONORABLE JUDGE SLATER was in on

the case for the first time, he may not have known that Defendant's Notice of Appeal to the higher court had been filed or of the other proceedings previously before the same court.

On October 26, 1965 the HONORABLE JUDGE FRED W. SLATER entered an order which reads: (Ckt Ct Record p 59)

"This cause coming on to be heard on the return of a rule to show cause heretofore entered against EDWARD PAULAITIS for the failure to comply with the Decree for Divorce touching the payment of alimony, child support and court costs, due notice having been served and the court having jurisdiction: -

"It is hereby ordered that the clerk of this court shall have a Peoples Writ of Attachment directing the Sheriff of Cook County to produce the body of EDWARD PAULAITIS before this HONORABLE Court said EDWARD PAULAITIS to pay the costs of said Writ of Attachment.

"It is further ordered that EDWARD PAULAITIS shall pay to BERNARD KAUFMAN, Attorney for NORINE PAULAITIS, Five Hundred Dollars ($500.00) as and for Plaintiff's attorney fees."

This Order was included by the clerk of Circuit Court in the Record although it is not an item requested in Defendant's Praecipe for Record. (Ckt Ct

Record p 55,56). Defendant had filed the Praecipe for Record one day before this Order had been entered.

Defendant filed his BRIEF AND ARGUMENT and ABSTRACT OF RECORD in the Appellate Court of Illinois on January 28, 1966. These appear as pages 4B to 15B and pages 52B to 63B in the Supreme Court of Illinois Record as submitted to this court.

Defendant's BRIEF AND ARGUMENT states the following under

NATURE OF THE ACTION

"This is Defendant's Appeal from an Order entered by the HONORABLE JUDGE HYMAN FELDMAN on September 7, 1965 establishing and enrolling a divorce decree from the State of Florida as an Illinois decree, without allowing Defendant additional time to obtain counsel or to be heard and to present evidence why the decree should not be entered."

The BRIEF AND ARGUMENT refer to Defendant's "Petition for Rehearing" as abstracted in the ABSTRACT OF RECORD and as previously referred to herein item by item. The BRIEF reviews the Petition as follows:

"...This petition relates, among other items, Defendant's attempt to appraise the court of the fact that the Plaintiff, prior to filing for divorce, took all joint life savings to herself

and left Defendant in Chicago, without a job, totally incapable of defending himself in the Florida action and that the Florida decree was based on false and unjustified pretenses on the part of the Plaintiff. Defendant was powerless to defend himself..."

In Defendant's BRIEF AND ARGUMENT under the section entitled ARGUMENT, Defendant-Appellant stated:

"It is particularly significant that the Defendant was denied the right to be heard and have the allegations proven by the Plaintiff in this cause, because the action makes a gross injustice to the Defendant."

Under DEFENDANT's THEORY OF THE CASE, the BRIEF AND ARGUMENT states:

"Defendant's theory of the case is that every man is entitled to his day in court, and that the HONORABLE JUDGE HYMAN FELDMAN should have set Plaintiff's motion for a hearing in which Defendant could make further efforts to obtain competent counsel and present his evidence why the decree should not be entered. Depriving Defendant of this opportunity deprives him of his rights without Due Process of Law."

Under POINTS AND AUTHORITIES and also in the ARGUMENT sections in his BRIEF AND ARGUMENT, Defendant cited in support of his appeal

THE CONSTITUTION OF THE UNITED STATES
Article V as amended

"NO PERSON SHALL . . . BE DEPRIVED OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW ....."

Under ARGUMENT referring to the Due Process of Law clause, Defendant-Appellant argued that

"Every man is entitled to have his day in court. To deny a man a hearing denies the man's fundamental rights guaranteed under the United States Constitution."

Also under POINTS AND AUTHORITIES and within the ARGUMENT section of his BRIEF AND ARGUMENT, Defendant cited Regan vs Regan 388 Ill App 2d 383 and Saxon vs Saxon 20 Ill App 2d 477 156 NE 2d 229 excepting the following:

"We are fully cognizant of the overwhelming pressures to which a most conscientious judge in a hearing of motions such as these, and we can well understand the confusion that would follow if the hundreds upon hundreds of such motions in divorce cases were each to receive a formal hearing; yet, until another legal method for the disposition of these matters is found and provided for by legislation, the courts must provide a hearing when it is requested. THIS IS FUNDAMENTAL.

Defendant's BRIEF concluded with:

"The Defendant respectfully submits that he is entitled to a hearing and respectfully urges the Court to remand the cause to the Circuit Court with instructions to:

1. Vacate the Order enrolling the Florida decree as an Illinois decree.
2. Grant the Defendant a full and unabridged hearing on the motion to enroll the Florida decree as an Illinois decree before the Judge who is assigned to hear foreign decrees, not just to any Judge.
3. Charge all costs to the Plaintiff."

The reference to a judge "who is assigned to hear foreign decrees, not to just any judge" refers to the fact not part of this record that all "Foreign Decrees" at that time were being heard by a Judge other than JUDGE HYMAN FELDMAN.

The guarantees to a hearing, a right under the United States Constitution, specifically cited by the Defendant as the Due Process of Law clause has been the SOLE issue of all of Defendant's actions and appeals in this cause as indicat above. This United States Constitutional issue was raised in the proper and timely manner from the very beginning by the Defendant and gives ultimate jurisdiction to the United States Supreme Court to review the judgment being appealed.

Plaintiffs counsel delayed the case in the Appellate Court by filing nine Motions for an extension of time to file his reply briefs and other response to the "Brief and Argument" of Defendant-Appellant. These delays covered the period from February 24, 1966 to January 6, 1967. All Motions for an extension of time were allowed by the Appellate Court of Illinois. The initial Motion for

continuance indicated that MR. ROBERT J. NYE had now filed his appearance as one of the attorneys for Plaintiff in this cause and had undertaken prime responsibility for the "defense of this appeal.."

On January 6, 1967 almost a year since Defendant filed his Record in the Appellate Court of Illinois, First District, Plaintiff's counsel finally responded in that court by filing

1. A Motion for Leave to file a Supplemental Record (page 29B Ill Sup Ct Record).
2. A Motion to dismiss Appeal or in the alternative to affirm the orders and decisions of the trial court (page 28B Ill Sup Ct Record).
3. An Affidavit of Attorney ROBERT JAY NYE in support of Motion to Dismiss Appeal or in the alternative to affirm (8 pages - pages 30B to 37B of the Ill Sup Ct Record).
4. Memorandum in Support of Motion to Dismiss Appeal or in the alternative to affirm (11 pages - pages 38B to 48B in Ill Sup Ct Record).

Several facts are noteworthy in these Plaintiff's documents:

All documents are signed by either MESSRS. KAUFMAN or NYE, or both, as attorneys for Plaintiff-Appellee. To the best of Defendant-Appellant's knowledge, Plaintiff's signature no longer appeared on these and subsequent documents. The Affidavit presented is that of ROBERT J. NYE, the attorney, not the Plaintiff.

The Supplemental Record which Plaintiff's attorneys asked leave to file contains only documents, orders, etc. that relate to events SUBSEQUENT to the time Defendant-Appellant's NOTICE OF APPEAL was filed. No documents in the Supplemental Record refer to any proceeding prior to Defendant-Appellant's Notice of Appeal which was filed October 15, 1965. Yet, in Item 13 of ATTORNEY J. NYE's Affidavit (page 34B Ill Sup Ct Record) he states under oath:

"The Record on Appeal furnished to this Appellate Court by the Defendant-Appellant is wholly insufficient and is not aided by the Supplemental Record presented by the Plaintiff-Appellee".

The Appellate Court, however, allowed Plaintiff's attorney's Motion to file this Supplemental Record although under court rules this was approximately one year past the normal time for requesting and filing a Supplemental Record.

ATTORNEY NYE's "Addidavit" is of a nature todiscredit Defendant-Appellant's character and his motives. It contains arguments why Defendant's Appeal should be dismissed, items which do not properly belong in an Affidavit. ATTORNEY NYE's Affidavit will be recounted point by point herein since it is perhaps the best evidence that Plaintiff has no case. ATTORNEY NYE's Affidavit contains statement of the "reasons" why Defendant's Appeal should be dismissed. Since the sheer volume of the total presentation (21 pages of an estimated 7000 words) is so great it would be difficult to recount it here and reconsider

it again point by point in the ARGUMENT section, the Defendant-Appellant has taken the liberty to present each point in the STATEMENT OF FACTS together with his argument concerning the validity of the statements in relation to his Appeal. Defendant respectfully submits that none of the "disclosures" in the Affidavit faces the basic issue presented on Appeal and the presentation has no bearing on Defendant's Constitutional right to a hearing before judgment is rendered. This point by point review will show that ATTORNEY NYE has no defense and that he resorts to defamation of character and introduces irrelevant and immaterial points not legally permissible in an attempt to overwhelm Defendant's ability appearing prose to digest and reply to the mass of information. The review will show that presentation attempts to give the proceedings a mask of legal respectability whereas it, in fact, is a callous deliberate attempt to deprive the Defendant-Appellant of a fundamental Constitutional right to be heard before judgment is rendered and for this reason deserves the rebuke and denunciation of the courts.

The 19 points presented in ATTORNEY NYE's Affidavit are as follows:

Item 1 in ATTORNEY NYE's Affidavit (Ill Sup Ct Record p 30B) states he is a member of various courts including the Supreme Court of the United States.

Items 2 to 10 (Ill Sup Ct Record pages 30B to 33B) concern statements of events occurring AFTER Defendant-Appellant's Notice of Appeal and are of a nature to discredit the Defendant-Appellant's character and his motives. These items refer to

the Supplemental Record which was introduced by MR. NYE almost one year after Defendant's BRIEF AND ABSTRACTS were on file in the Appellate Court. None of the proceedings in the Supplemental Record pre-date Defendant's Notice of Appeal. MR. NYE's interpretation of these events tends to show that the Defendant is a scoundrel who had nothing but contempt for the court because he refused to comply with the orders of the court based on the entry of the Florida decree as an Illinois decree and because the court saw fit to have the Sheriff seek him out and bring him before the court; that he has refused to allow the Sheriff to find him so that he could be forced to abide by the terms of these orders. Defendant's position as stated in his Notice of Appeal to this court (Item 12 in Defendant's Notice of Appeal) is that he cannot be denied the right "to maintain this Appeal by reason of his contempt of court" (Plaintiff's attorney's words) when the court, itself, in issuing these orders had the utmost contempt for a citizen's fundamental right to be heard before judgment was rendered and that this so-called contempt of the court is, from Defendant's point of view, a legitimate refusal to obey court orders derived from unconstitutional procedures and does not excuse the court's denial of Defendant's right to be heard prior to judgment now or in the first place.

MR. NYE also stated that Defendant-Appellant refuses to pay Plaintiff $1250.00 as and for attorney's fees in

connection with the Appeal heretofore filed by EDWARD PAULAITIS and the sum of $250.00 and as for her costs which the court in the person of JUDGE HYMAN FELDMAN ordered Defendant to pay, an order entered without the presence of the Defendant, and without any knowledge or evidence of Defendant's ability to pay. JUDGE HYMAN FELDMAN is the same Judge who entered the Florida decree as as an Illinois decree. Defendant's position is that it is utterly reprehensible to order a Defendant to pay Plaintiff's attorney to fight an appeal when that appeal being made by the Defendant is on the basis that Plaintiff's attorney in cooperation with the above JUDGE HYMAN FELDMAN denied him his fundamental Constitutional right to be heard before judgment was entered in the first place. JUDGE FELDMAN in signing this order must have been aware of the circumstances. He had received a personal copy of Defendant's "PETITION FOR REHEARING" in which the basis of Defendant's objections to the courts proceedings cannot be misinterpreted.

None of these instances of so-called contempt of court occurred prior to the time Defendant filed his NOTICE OF APPEAL. Plaintiff's counsel, as well as the courts, must know without a shadow of a doubt that a man's guilt or innocence in one case or his fundamental constitutional right to a hearing before judgment cannot be abridged by reference to later acts of alleged or actual guilt or innocence as items 2 to 10 in the Affidavit refer to. An honest court would have seen through this sham if it had

considered the evidence and disregarded the presumed alleged guilt by association.

Defendant's position is also implied in his question to be answered in the Notice of Appeal to this court as follows:

> Is the Defendant guilty of avoiding arrest when he knows, from prior action of the very same courts, that these particular courts had no respect for a man's right and that this arrest would totally prevent him from appealing for his basic Constitutional right? For the Defendant's basic rights were totally disregarded in a preceding court case in which he was involved regarding his father's estate which led to the present action. (Item 10 in the Notice of Appeal to this court).

The ARGUMENT section hereafter recounts the violation of Defendant's basic rights in which a "cardinal principle of law that the Last Will and Testament must be given effect if at all possible" was disregarded and circumvented by the courts by the same techniques employed in this case and explains Defendant's reaction to the gross injustices being perpetrated by the same illegal procedures in this case.

Items 2 to 10 of ATTORNEY NYE's "Affidavit" therefore are an attempt to influence he court to abridge Defendant's fundamental Constitutional rights by implying that Defendant by later acts "proved" himself unworthy of being given his basic Constitutional right to a hearing in the first place, a right which even a criminal enjoys.

Items 11 to 19 in ATTORNEY NYE's "Affidavit" are arguments why Defendant-Appellant's Appeal should be dismissed or the lower courts' decisions be affirmed.

Item 11 (Ill Sup Ct Record p 33B) of ATTORNEY NYE's "Affidavit" states:

"...Examination of the Brief filed by Defendant-Appellant with the clerk of the Appellate Court reveals that his Brief and Argument concerns only a September 14, 1965 trial court order... The Defendant-Appellant has failed completely to argue the Order of September 7, 1965 from which he purports to appeal by his said Notice of Appeal."

Defendant-Appellant argues he contrary is true and can be easily be verified as follows:

Defendant-Appellant's BRIEF states:

Under NATURE OF THE ACTION (Page 54B Ill Sup Ct Record)

"This is Defendant's appeal from an Order entered by the HONORABLE JUDGE HYMAN FELDMAN on September 7, 1965 establishing and enrolling a divorce decree from the State of Florida as an Illinois decree....."

Under STATEMENT OF FACTS (Pages 57B Ill Sup Ct Record)

"On September 7, 1965 the HONORABLE JUDGE HYMAN FELDMAN entered an Order pre-typed by Plaintiff's counsel in which the decree of Florida was 'established and enrolled as an Illinois decree' over Defendant's strenuous objections that he wanted to have the case set for hearing but to no avail."

Defendant-Appellant's Petition for Rehearing filed hours later the same day September 7, 1965 as recorded in the Abstract of Record filed in the Appellate Court (Pages 8B to 13B of Ill Sup Ct Record) clearly points out Defendant's reaction to his being denied a hearing before the order of September 7, 1965 was entered.

Under ARGUMENT (Page 59B Ill Sup Ct Record) Defendant-Appellant states:

"It is fundamental that the courts must provide a hearing when it is requested."

Every man is entitled to his day in court. To deny a man a hearing denies man's fundamental rights guaranteed under the United States Constitution. Defendant-Appellant cited and quoted the United States Constitution Article V "Due Process of Law" provision in support of his argument.

Defendant-Appellant's BRIEF concludes with:

"The Defendant-Appellant respectfully submits he is entitled to a hearing and respectfully urges the Court to remand the case to the Circuit Court with instructions to:

1. Vacate the Order enrolling the Florida decree. (Note this is the Order of September 7, 1965).
2. Grant the Defendant a full and unabridged hearing on the Motion to enroll the Florida decree...."

These facts, easily verified, fully establish that Defendant-Appellant argues clearly the right to have been herd before the Order of September 7, 1965 was entered

which decrees that Plaintiff's prayer to establish and enroll the Florida decree is granted and is contrary to ATTORNEY NYE's statement that:

"examination... reveals that his Brief and Argument concern only a September 14, 1965 trial court order".

The only reference made in Defendant's BRIEF to the Order of September 14, 1965 is as follows: (Page 58B of Ill Sup Ct Record).

"Following this short Court procedure, Defendant filed a Petition for Rehearing on the same day, September 7, 1965.." On September 14, 1965 the HONORABLE JUDGE HYMAN FELDMAN entered an Order striking the Motion of the Defendant from the call upon finding that the Defendant had not appeared to present the Petition for Rehearing."

No other reference of any kind is made to the Order of September 14, 1965. Therefore ATTORNEY NYE's conclusion in the "Affidavit" is in error. The only Order which always has been, and is, under Appeal by Defendant-Appellant as clearly stated in his BRIEF is the appealable Order of September 7, 1965 which DECREES that the Florida divorce decree is entered as an Illinois decree.

Item 12 (Ill Sup Ct Record p 34B) states the Order of September 7, 1965 is a final and appealable order, and would not be final until the disposition of the Defendant-Appellant's "Petition for Rehearing" filed by him with the trial court in September 7, 1965 but never prosecuted

by him.

In the words of the Plaintiff's counsel "the Order of September 14, 1965 striking the petition from the call for Defendant-Appellant's failure to appear to prosecute it does not constitute a final determination on the merits".

Thus ATTORNEY NYE's "Affidavit" items 11 and 12 states Defendant <u>really</u> appealed, not from the Order of September 7, 1965 establishing and enrolling the Florida decree (which is not true) but from the Order of September 14, 1965 which is not a final determination. As a statement of fact it should be noted that the Order of September 14, 1965 strikes Defendant's"Petition for Rehearing"from the call and disposed of it as far as the court was concerned.

Item 13 (III Sup Ct Record p 34B) states that "the record on appeal furnished to this Appellate Court by the Defendant-Appellant is wholly insufficient and is not aided by the Supplemental Record presented by the Plaintiff-Appellee". It should be noted that the Supplemental Record as furnished by ATTORNEY NYE covers only proceedings after the appeal - nothing prior to the appeal and therefore cannot be legitimately brought in on this appeal.

Item 13 also states "the Order of September 7, 1965 REFERS TO THE <u>FACT</u> that evidence was heard by the trial court" (emphasis added). Defendant's argument is that a deliberate lie entered into a court order does not constitute that as a FACT. The only means by which Defendant-Appellant

could object and establish that there was no hearing, that there were no witnesses to testify or be cross-examined is contained in his document filed in the same court within hours of the entry of the order stating under oath that there was no hearing given the Defendant and that the court proceedings represented a travesty of justice and was representative of a "kangaroo court". Nowhere does ATTORNEY NYE state that Defendant was given a hearing. He resorts to reference to the lie that was entered by counsel for his client in the court order that "evidence" was heard by the trial court. He ignores Defendant's severe protests upon being denied a hearing.

Item 13 goes on to state that "a Report of proceedings is necessary to render the record on appeal sufficient. No Report of Proceedings has been furnished by Defendant-Appellant as part of the record on appeal as required...." It would have been utterly futile to obtain a valid Report of Proceedings under the circumstances. Defendant's "Petition for Rehearing" which recounts the proceedings of that day under oath is the best report of proceedings Defendant could possibly produce.

ATTORNEY NYE's "Affidavit" concludes Item 13 by stating that "Nor has Defendant-Appellant furnished Report of Proceedings as part of his record on appeal insofar as the propriety of the Order of September 14, 1965 (FROM WHICH HE HAS NOT APPEALED BUT WHICH ALONE HE HAS ARGUED IN HIS BRIEF" (emphasis added)

The phrases emphasized herein is also a deliberate misinterpretation as previously referred to.

Item 13 of ATTONEY NYE's "Affidavit" under oath therefore completely distorts the truth and makes it appear that

a. Defendant did not present a complete record and would make it appear that the Supplemental Record furnished almost one year late by Plaintiffs attorney corrects this "deficiency" whereas the record supplied by them covers only proceedings and events after Defendant's Notice of Appeal was filed.
b. Defendant purports to argue an Appeal from one Order whereas he is arguing and appealing from another order in spite of the fact that the Order appealed from is clearly stated in Defendant's BRIEF and that there is only one reference in the argument in the BRIEF concerning the other order which ATTORNEY NYE states in his "Affidavit" is the order which ALONE has been argued.
c. Defendant did not furnish a Report of Proceedings. ATTORNEY NYE totally ignores the utter futility of obtaining such report in view of the circumstances.

Item 14 (111 Sup Ct Record p 34B) of ATTORNEY NYE's "Affidavit" states the ABSTRACT OF RECORD as furnished by the Defendant is wholly insufficient in that it

a. Fails to comply with Rule 5 and Rule 5 and Rule 38. ATTORNEY NYE does not elaborate on what effect this has on the Appeal.

b. Fails to abstract any evidence upon which the September 7, 1965 Order appealed from was predicated. ATTORNEY NYE does not state what this "evidence" is.

c. Fails to abstract more than one short allegation of the COMPLAINT TO ESTABLISH OR ENROLL A DECREE OF A SISTER-STATE AND FOR OTHER RELIEF. ATTORNEY NYE does not elaborate what effect this would have on Defendant's Appeal.

d. Fails to abstract the Florida decree. ATTORNEY NYE does not state what the effect on Defendant's appeal would be.

e. Fails to set forth in full the Order of September 7, 1965 from which the Defendant "purports" to appeal. ATTORNEY NYE does not state what effect this has on Defendant's appeal.

f. Fails to abstract the Notice of Appeal in a manner sufficient to identify the Order from which he appeals to this Appellate Court.

In reply to Item (f), Defendant states that his Notice of Appeal to the Appellate Court of Illinois, First District, states:

"PLEASE TAKE NOTICE that the Defendant-Appellant hereby appeals to the Appellate Court of Illinois, First District, from the final Order entered in the Circuit Court of Cook County, Illinois on September 7, 1965 which order establishes and enrolls the decree of the State of Florida as an Illinois decree."

ATTORNEY NYE in his "Affidavit" does not show how the failure to abstract this

section affects Defendant's Appeal. The NOTICE OF APPEAL is listed in Defendant's ABSTRACT and was provided in the RECORD submitted to the Appellate Court.

Item 14 of ATTORNEY NYE's "Affidavit" therefore implies somehow these "failures" have a bearing on Defendant's case for the right to a hearing before judgment but ATTORNEY NYE does not submit any evidence of how Defendant's appeal would be thus affected.

Item 15 (Ill Sup Ct Record p 35B) of ATTORNEY NYE's "Affidavit" states that Defendant has committed a patent untruth under oath concerning his residence by denying the following allegation in Plaintiff's complaint in his ANSWER.

"2 That the Defendant in that cause is now a resident of Cook County, Illinois."

This allegation as stated implies that the Defendant was not a resident of Illinois at the time of the divorce proceedings in Florida. Evidence, if it had been allowed to be presented, would show Defendant was a resident of Illinois at that time; had previously re-established his Illinois residence to pursue matters in his father's estate that this fact is substantiated in court files and that he was a registered voter in Chicago and actually voted in elections in Illinois prior to the time the complaint for divorce was filed in Florida. By her act of representing herself and Defendant as a resident of Florida to obtain the divorce, and taking all of Defendant's life savings held in joint accounts to herself, she confirmed her desertion of the Defendant. Therefore,

her allegation in the Complaint that Defendant is NOW a resident of Illinois as if to imply that Defendant ran away to avoid prosecution was denied in Defendant's ANSWER. ATTORNEY NYE would make it appear otherwise. But perhaps more important is the fact that this has no bearing on the basic issue of the Appeal; that is Defendant's right to a hearing before judgment and is an attempt to besmirch the character of the Defendant implying that he is unworthy of the Constitutional guarantees which even a criminal enjoys.

Item 16 (Ill Sup Ct Record p 36B) of ATTORNEY NYE's "Affidavit" states Defendant "has accepted the benefit of the Florida Decree for Divorce which has been established by Order of the trial court also as an Illinois Decree for Divorce and THUS MAY NOT BE PERMITTED TO ATTACK any order, or orders, establishing or entering such DECREES". This is ATTORNEY NYE's conclusion, is not in evidence and represents a deliberate falsehood. Evidence, if it had been allowed to be presented, would show that Defendant was forced out of his wife's residence by representing to the Florida court that Defendant was a potentially vicious character whereas the fact is that he had harmed no one in his life. She fancied he would harm her when he learned she took their life savings held in joint account to herself. Item 16 in ATTORNEY NYE's "Affidavit" is therefore another attempt to besmirch the character of the Defendant. The statement is not supported by the record and evidence, if allowed to be presented, would show it is

is not true. More important, however, it has no bearing on Defendant's right to be heard before judgment is rendered.

Item 17 (Ill Sup Ct Record p 36B) of ATTORNEY NYE's "Affidavit" states that Defendant's action constitutes an "attempted collateral attack on a Decree of a sister-state which is prescribed by the Full Faith and Credit Clause of the United States Constitution (United States Constitution Article IV Section 1)." This implies that Defendant does not have the right to attack any decree anywhere at any time even tho the decree may have been entered unjustly. Does he suggest that Article IV, Section 1 of the United States Constitution takes precedence over the Due Process of Law provision of Article V? ATTORNEY NYE's statement has no bearing on the fundamental issue of Defendant's Appeal, the right to a hearing before judgment.

Item 18 (Ill Sup Ct Record p 36B) of ATTORNEY NYE's "Affidavit" makes this conclusion:

> "The sufficiency of the evidence to support the Order of September 7, 1965 establishing and enrolling the Florida Decree for Divorce as an Illinois Decree IS ADMITTED by the failure of Defendant-Appellant to include a Report of Proceedings as part of his Record of Appeal and by his failure to abstract the evidence in his Abstract of Record." (emphasis added).

Defendant-Appellant admits no such thing. This document is mute testimony to Defendant-Appellant's non-admission of this conclusion

represented in ATTORNEY NYE's "Affidavit".

Item 18 (Ill Sup Ct Record p 36B) is an exact repetition of Item 13 which has been fully examined herein and its validity rejected in utmost detail.

The statement implies there was a hearing with evidence presented. ATTORNEY NYE does not state that Defendant was granted a hearing. He does not state witnesses were there to prove the allegations. He cannot. There were none.

In effect, Plaintiff's counsel argues that the only recourse Defendant had in the Appeal to prove his case was to submit a Report of Proceedings to be signed by the Judge who signed an Order reading:

"having heard the evidence"

when there were no witnesses to present evidence and, in effect, Plaintiff's counsel argues that the only recourse Defendant had in his Appeal to prove his case was for the Defendant to abstract evidence in his ABSTRACT OF RECORD which evidence does not exist.

But ATTORNEY NYE does not "abstract" evidence or refer to any witnesses who he seems to imply were present. However, he does refer to the "FACT" that the words "the court having heard evidence" appears on the court order implying this was a fact. He did not submit a Supplementary Report of proceedings to show that Defendant's statements are not true. He cannot because there was no hearing. Defendant did the only thing he could do under the circumstances. He filed a "Petition for Rehearing" within hours

hours of the entry of the court order protesting, in the severest terms borne of sheer frustration, that he was denied a hearing and that the proceedings of the court amounted to a travesty of justice reminiscent of a "kangaroo court". He included this evidence in his ABSTRACT OF RECORD as the only direct evidence available that he requested a hearing and was denied.

Item 19 (Ill Sup Ct Record p 37B) of ATTORNEY NYE's "Affidavit" states:

> "defendant-appellant may not be permitted to argue the propriety of the order of September 14, 1965.....Defendant-Appellant has not included the Order of September 14, 1965 in his Notice of Appeal....Further, Defendant-Appellant has not ever urged the trial court the contention that it was an error to strike the Petition from the call (Defendant's Petition for Rehearing which is the subject of the order of September 14, 1965 referred to); and thus Defendant-Appellant has waived any claim of error in such action by the trial court."

ATTORNEY NYE ignores the fact that Defendant took the court's striking action on face value, filed his NOTICE OF APPEAL, perfected his Appeal in the Appellate Court of Illinois, appealed to the Supreme Court of Illinois and is now in the Supreme Court of the United States. Plaintiff's attorneys are attempting to waive Defendant's basic fundamental Constitutional right to a hearing before judgment and, in effect, are attempting to waive Defendant's rights under the Due Process of Law provisions of the Constitution of the United States Article V. Defendant-

Appellant never has, is not about to, "waive any claim for error". He is proceeding in the spirit of all true Americans who know when their fundamental Constitutional rights are being flagrantly and callously violated.

These conclude the items in the "Affidavit".

As previously stated, a "Memorandum in Support of Motion to Dismiss Appeal or in the alternative to affirm" was also submitted to the Appellate Court signed by MESSRS. BERNARD KAUFMAN and ROBERT J. NYE, as Plaintiff's attorneys. This document reiterates the "Arguments" of ATTORNEY ROBERT NYE's "Affidavit" and cites authorities.

Plaintiff's attorneys' Affidavit and Memorandum together with the Motion to Dismiss or affirm consist of 21 pages (Pages 28B to 49B of Ill Sup Ct Record) of legal size paper constituting, in effect, an estimated 7000 word Motion with supporting documents as a substitute for a REPLY BRIEF designed to dismiss Defendant-Appellant's right to a hearing before judgment.

They were presented in a form of a Motion which is acted upon immediately. A reply BRIEF would have allowed Defendant much more time to file an opposing Answer.

As previously stated, these documents were filed by Plaintiff's counsel in the Appellate Court January 6, 1967. Defendant-Appellant confirmed by phoning the Clerk's office that Court action on the Motion would issue in short order. Defendant-Appellant,

appearing pro-se, could not reply to the numerous points raised in these documents in so short a time. Accordingly, on January 12, 1967 Defendant sent the telegram shown herein in Appendix C to the Judges whose names were given to him by the Appellate Court clerk, with copies to Plaintiff and her attorneys. This telegram stated:

> "There is only one issue in this case and that is whether a man has the right to be heard or not, a fundamental Constitutional right. I earnestly urge the Court to read my Brief to evaluate opposing counsel's Motion to Dismiss the Appeal. Opposing counsel is attempting to mask the real issue by extraneous matter and defamation of character..."

No letter was received by Defendant-Appellant indicating the Court's action on the Motion. Defendant-Appellant learned that his Appeal in the Appellate Court of Illinois was dismissed when he made a telephone inquiry to the Clerk's office. He was informed that the Appeal was dismissed on January 17, 1967 without an Opinion being written and that it was merely dismissed on Plaintiff's Motion.

Almost 5 months later a copy of a letter dated June 13, 1967 was received from the Clerk of the Appellate Court. This letter was issued by the Clerk of the Appellate Court addressed to the Clerk of the Circuit Court of Cook County (the court below) stating that a Mandate from the Appellate Court was enclosed. Acknowledgment of the receipt of this letter was requested by the one clerk from the other. No copy of the Mandate was sent to the Defendant. A certified copy of the Mandate was obtained

from the lower court by the Defendant to determine its content. It is reproduced in Appendix D herein. A certified copy of this Mandate will be forwarded to this court with this Jurisdictional Statement. This copy of the Mandate received from the lower court indicates it was filed in the lower court (the Circuit Court of Cook County) on June 16, 1967, which is 5 months after the date the Mandate states it was issued. In the meantime Defendant had filed an Appeal to the Supreme Court of Illinois and that court had already issued its Mandate on June 8, 1967. Thus the Appellate Court submitted its Mandate to the lower (Circuit) Court 5 months after it was issued and about 10 days after the next higher court (the Supreme Court of Illinois) issued its Mandate. The copy of the letter sent to the Defendant by the Clerk of the Appellate Court when he transmitted the Mandate to the lower court made the Defendant know, for the first time, of the existence of the Appellate Court Mandate.

The Appellate Court Mandate reads as follows:

"The Court having considered the Motion of Appellee for Leave to File a Supplemental Record in said cause instanter, as per reasons filed herein, and being now fully advised in the premises, doth grant said Motion.

And the Court having considered the Motion of Appellee to Dismiss the Appeal in the above entitled cause, as per Affidavit filed herein: and also having considered the objections of Appellant to said Motion, and being now fully advised in the premises, doth grant said Motion. IT IS THEREFORE ORDERED BY THE COURT THAT THE

APPEAL IN THE ABOVE ENTITLED CAUSE BE, AND THE SAME IS HEREBY DISMISSED OUT OF THIS COURT." (emphasis added)

The interesting fact about the wording in the Mandate is that the Defendant-Appellant had not filed any formal objections, only the telegram previously referred to and shown in Appendix C was sent to the Court with copies to opposing counsel immediately before the Appeal was denied but it went to three (3) judges of the First Division of the Appellate Court, and the Mandate was issued by three (3) other judges of the Second Division.

Thus, one year after Defendant had filed his BRIEF AND ABSTRACT in an Appeal on one of man's most fundamental Constitutional rights to a hearing before judgment is rendered, Defendant's case was dismissed "out of this court" on January 17, 1967 just eleven days after Plaintiff's attorneys filed their 21 page, 7000 word, motion and affidavit which is more in the nature of a reply brief. The court thus avoided reference to the basic Constitutional issue raised by the Defendant.

On March 16, 1967 Defendant-Appellant filed an Appeal to the Supreme Court of Illinois entitled "PETITION FOR APPEAL AS A MATTER OF RIGHT" under Rule 317 of the Illinois Supreme Court Rules as contrasted to the other possible alternative for petitioning for Leave to Appeal under Rule 315 which states:

"A Petition for Leave to Appeal to the Supreme Court from the Appellate Court may be filed in any case not appealable from the Appellate Court as a matter of right."

In this Petition for Appeal as a Matter of Right Defendant-Appellant stated as follows: (Ill Sup Ct Record p 2B)

"3. The points relied upon by Defendant for reversal on the right expressed in the United States Constitution Article V, that no person shall be deprived of life, liberty or property without Due Process of Law. The right of Defendant to a hearing prior to judgment is fundamental to Due Process. The action of the Appellate Court in dismissing Defendant's Appeal deprives Defendant of this right.

Also stated in this Petition for Appeal (page 2A Sup Ct Record) is this statement under 5:

"The clerk of the Appellate Court informed Defendant that no Opinion was written by the Judges of the Appellate Court, that the Appeal was merely dismissed on Motion of Plaintiff. Therefore, no copy of an Opinion of the Appellate Court is appended to this Petition as required by the rules."

Further on in this Petition, Defendant stated:

"Defendant submits that the right of a Defendant to present a defense is inviolable, that no court has the right to enter prior judgment without granting Defendant a hearing when requested. Defendant's strong objections to this action was filed in court within hours after the Circuit Court entered its order. Defendant submits that Plaintiff, through Plaintiff's attorneys, does not have the right to deny Defendant his day in court, or attempt to jail a Defendant who refuses to voluntarily submit to judgment rendered without a hearing when an appeal was pending. Defendant further submits that Plaintiff, through Plaintiff's attorneys, does not have the right to attempt to jail a Defendant for

refusing to pay the Plaintiff moneys to be used for the purpose of fighting Defendant's appeal for the right to be heard in his own defense, a fundamental Constitutional right. Defendant further submits that the Plaintiff's attorneys cannot use Defendant's reluctance to voluntarily submit to arrest in jail for not paying such moneys as an argument why the Defendant should not be granted his Constitutional right on appeal as they have done in their motion to dismiss in the Appellate Court. Defendant further submits that Plaintiff, through her attorneys, does not have the right to destroy the Defendant's character by denying him the right to present evidence in his own behalf.

Defendant submits that those condoning such action besmirch the integrity of legal procedure and are unworthy to practice in court, that they should be held personally accountable for their actions and pay the Defendant all costs incurred by him in defense of his fundamental Constitutional right.

The Defendant, therefore, appeals to the Supreme Court to reverse the Appellate Court's dismissal of Defendant's appeal to that court or, in the alternative, in the interest of undelayed justice to grant directly by way of relief, the same relief asked for in Defendant's appeal to the Appellate Court which was to order the Circuit Court to:

1. Vacate the order enrolling the Florida decree as an Illinois decree.
2. Grant the Defendant a full and unabridged hearing on the motion to enroll the Florida decree as an Illinois decree before the Judge assigned to hear motions on foreign decrees, not to any judge.
3. Charge all costs to the Plaintiff."

Fifteen (15) copies of the Abstract of Record and fifteen (15) copies of the Brief and Argument as originally submitted to the Appellate Court of Illinois were forwarded for reference to the Supreme Court of Illinois on the same day the "Petition for Appeal as a Matter of Right" was filed. The Clerk of the Supreme Court returned the 15 copies of the Brief for certification. Defendant-Appellant had the Appellate Court Clerk certify the copies and then returned these copies to the Supreme Court Clerk who stamped the Brief as filed April 18, 1967 as state in the Notice of filing. A certified copy of the letter of March 17, 1967 from the Illinois Supreme Court Clerk's office is submitted to this Court to verify this fact.

On March 16, 1967 Plaintiff's attorneys filed, in the Supreme Court of Illinois, a "Motion of Respondent to Strike and Dismiss Petition for Appeal as a Matter of Right" or in the alternative to deny said Petition. (Pages 17B to 26B Ill Sup Ct Record).

In support of this Motion, Plaintiff's attorneys submitted photostatic copies of the Motions and supporting papers to dismiss Defendant's appeal submitted to the lower Appellate Court of Illinois. The Motion re-summarized the nine points previously covered in the Appellate Court documents. In addition to points previously made, three additional points were made by Plaintiff's attorneys which are summarized as follows:

a. Appeal must be stricken or denied "because this is not a case in which a question under the Constitution of the United States arises for the first time

in and as a result of the action of the Appellate Court as required by Supreme Court Rule 317".

b. Appeal must be stricken or denied "because it asserts scandalous and impertinent matter of and concerning Plaintiff-Respondent and her attorneys, without cause or basis therefore".

and

c. The appeal must be stricken and dismissed or denied "BECAUSE PETITIONER HAS FAILED TO INCLUDE IN HIS PETITION ANY ARGUMENT AS TO WHY APPEAL TO THE SUPREME COURT LIES AS A MATTER OF RIGHT". (emphasis added by Defendant-Appellant)

Defendant-Appellant received a letter from the clerk of the Supreme Court of Illinois stating that Defendant's "Petition for Leave to Appeal" was denied. Note that although Defendant-Appellant filed a "Petition for Appeal as a Matter of Right" as opposed to a "Petition for Leave to Appeal" as previously covered, the SUPREME COURT OF ILLINOIS treated Defendant's Appeal as if it were not a Matter of Right. A pre-printed Mandate was issued by the Supreme Court of Illinois on June 8, 1967 (page 64B U.S. Sup Ct Record) which refers to the Appeal as a "Petition for Leave to Appeal from the Appellate Court" and in its pre-printed phrasing states:

"And now on this day the Court having duly considered the Petition for Leave to Appeal herein and being fully advised of and concerning the premises, doth over-rule and denies Leave to Appeal herein:

And it is further considered by the Court that said Respondent recover of and from

the said Petitioner costs by HER in in this behalf expended, to be taxed, and SHE have execution thereof."

The only words typed in in the above are the words "HER" and "SHE", the rest is a pre-printed form.

As shown on Page 65B of the III Sup Ct Record submitted to this court, the Illinois Supreme Court ordered with reference to Plaintiff's Motion to dismiss Defendant's Appeal

"...ordered that the Motion by Respondent to strike and dismiss Petition for Leave to Appeal be, and the same is, denied."

Although it would appear at first glance from the above that Plaintiff-Respondent's Petition was denied, the total effect is that Respondent's prayer that "in the alternative that" (Defendant's) "Petition be denied" was in effect allowed.

After denial of "Leave to Appeal" by the Supreme Court of Illinois on May 17, 1967, Defendant-Appellant filed in the Supreme Court of Illinois on August 14, 1967, a "Notice of Appeal" to the Supreme Court of the United States of America.

Defendant-Appellant transmitted the Record of Appeal to the United States Supreme Court by registered mail on October 10, 1967 together with a docket fee and a Motion for a 30 day extension of time to file the Jurisdictional Statement and otherwise perfect Appeal by November 13, 1967. This Motion was granged by the HONORABLE ASSOCIATE

JUSTICE THURGOOD MARSHALL of the United States Supreme Court on October 12, 1967. A Motion with supporting Affidavits for an extension of time presented to the clerk of the Supreme Court of Illinois was returned unfiled with a letter stating an extension of time could be obtained from the Supreme Court of the United States.

ARGUMENT

Defendant submits that the right to be heard before judgment is rendered is so fundamental a Constitutional right, so firmly established and such common knowledge, that it needs no elaboration. Only a man bent on achieving his own ends, at all costs, would pursue the tactics of depriving another of his Constitutional rights to be heard. The only real question to be answered in this, and all other appeals, is whether Defendant was denied a hearing. If he were so denied, then Defendant was denied Due Process of Law as provided by the United States Constitution Article V and the Order which was entered without this hearing should be vacated and Defendant should be granted a hearing on the Motion which lead to this Order. All subsequent orders based on this order should also be vacated.

The evidence that Defendant was denied his right to a hearing is very clear. Plaintiff came into court with a Motion to "ask that the decree for divorce heretofore entered in this cause in the State of Florida be enrolled as an Illinois decree and for such other relief as prayed for in the Complaint of the Plaintiff filed herein". (Ckt Ct Record p 19). Defendant had previously filed his appearance and ANSWER denying the allegations of the Complaint (Ckt Ct Record p 22 - also referred to on page 57B of Ill Sup Ct Record presented to this court). Defendant came into court with the expectation that his request to set the matter for trial would be granted. He wanted a full and complete hearing on all points. Plaintiff's attorney, on

the other hand, came into court with a pre-typed order as shown in Appendix A decreeing that the Florida decree be entered as an Illinois decree. It was incumbent upon Plaintiff to prove the allegations of the Complaint before the court could consider granting the prayer of the Complaint to enroll the Florida decree and to allow the Defendant to present a defense. This is fundamental right of all citizens under the Due Process of Law provision of the United States Article V. JUDGE HYMAN FELDMAN who was not even assigned to hear FOREIGN DECREE cases granted the Motion in short order, over Defendant's strenuous objections that he wanted the case set for hearing but to no avail. The Defendant was so angered by this injustice, and his inability to do anything about it in court, that he wrote the "Petition for Rehearing" had it typed, notarized under oath and filed it in the same court within hours of the entry of the order. (Ill Sup Ct Record pages 8B to 13B). The STATEMENT OF FACTS recounts this Petition point by point and is incorporated herein by reference.. This document subscribed to under oath attests to the fact that the Defendant wss not given a hearing and that the action of the court, in effect, represented a travesty of justice. This document in very strong language reflects Defendant's complete frustration in not being given a hearing.

As stated by the Defendant in this Petition (Ill Sup Ct Record p 9B)

"3...and that the court without hearing or having the slightest interest in Defendant's reasons for not having yet

obtained counsel, proceeded on Plaintiff's Motion in a manner which Defendant claims is characteristic of a kangaroo court in that which Defendant attempted to say in his behalf was regarded by the court as the plea of one who could not possibly say anything which was relevent to the issues involved."

And in Section 5 of the same document:
"5...that this attitude of Judge HYMAN FELDMAN was one of total indifference and disdain for a citizen's capability to render an adequate defense pro-se."

And on page 10B
"8..That the court in the person of JUDGE HYMAN FELDMAN injudiciously dismissed without any question, interrogations, or attempt to understand the Defendant's position or his statement that the decree of the Florida's court was based on the Plaintiff's action in taking the life savings of both the Plaintiff and the Defendant which Defendant entrusted to the Plaintiff (joint accounts) and taking these monies in Plaintiff's own name disregarding the love and trust the Defendant had for his wife for twenty-one (21) years and that the Defendant was therefore powerless ...to challenge the act of the Plaintiff because of the lack of financial means to defend himself against Plaintiff's action and that ...the decree in Florida was entered on the part of false and unjustified pretense on the part of the Plaintiff and her attorneys."

In this document (Ill Sup Ct Record p 11B) the Defendant prayed that:

"the order of September 7, 1965 granting that the divorce decree of the State of Florida be established and enrolled in the State of Illinois be vacated pending a full, complete and unabridged hearing on all points of the Complaint which the Defendant by his Answer has denied being valid complaints."

And that (Ill Sup Ct Record p 12B)

"2...the Defendant be given all the rights of an individual to defend his position in a manner which HE and NOT the court deems best ...."

The evidence that the Defendant wanted but was not given a hearing is contained therefore in his document filed within hours of the court proceedings. The Defendant saw in this action a beginning of a repetition of preceding events that made it clear to him that justice in the courts is very illusive in Illinois courts. Here was a fundamental Constitutional right designed to insure that a man could defend himself against unjust proceedings that was being flagrantly violated and he was being told in effect that there is nothing he can do about it. A man under these circumstances becomes a pawn to be manipulated at will by attorneys who have so much influence in the court that justice becomes secondary to such an extent that they no longer deem it necessary to prove allegations or give a Defendant a chance to state his defense. It was the straw that broke Defendant's calm restraint as reflected in his "Petition for Rehearing".

For behind all of this was a series of events in Defendant's life concerning the courts that callously deprived him of property and rights due him under a "cardinal principle of law" and when he attempted to gain these rights, the courts acted as if these rights did not exist which led the Defendant to fight all the harder in the face of this gross injustice. He fought with such determination and resolve that it affected his home life, broke up a happy home, led to Defendant losing his life savings to a woman who did not have the capacity to understand the injustices being perpetrated or the sense of honor and integrity which drove the Defendant to fight for rights which were his under a "cardinal principle of law". And the attorneys she retained to obtain a divorce repeated the same type of injustices such as we have represented in this case before this court.

For the extent to which some elements of the courts in Cook County in the State of Illinois collaborate to disregard fundamental rights is illustrated in the cases relating to these events and can be verified by reference to the following cases relating to above situation.

Case No. 63 C 8788 in the Circuit Court of Cook County, State of Illinois

as appealed in
Case No. 49510 in the Appellate Court of Illinois, First District

as appealed in
Case No. 38611 in the Supreme Court of Illinois

and to the related cases which were opened in other courts to circumvent the proceedings in the courts in which the issues were first raised as follows:

Case No. 65 M1 262491 in the Municipal Court of Chicago.
Case No. 65 M1 118259 in the Municipal Court of Chicago

and their subsequent appeals to the Illinois Supreme Court.

The actions in these cases exemplify the same type of injustices being perpetrated in this case before this court of which the following are examples

(a) An Amicus Curia appointed by the Circuit Court absolved the court and two lawyers of any wrong-doing when these lawyers first acting as counsel for the participants, appointed themselves without notice as administrators of Defendant's father's estate and, then, when Defendant's attorney withdrew in anger after Defendant objected to this action, the court allowed the remaining attorney to act as administrator in spite of the fact that as counsel he opposed Defendant's interests in the interpretation of Defendant's father's Last Will and Testament, and let his former client be represented by another attorney whereas he now acted as administrator.

(b) Although the above Last Will and Testament appointed the present Defendant as executor and gave him in the words of the will "full power and authority to sell, or convey at any time or times, or mortgage or pledge, exchange or otherwise deal with or dispose of the property comprising my estate, in whole, or in

part, upon such terms as he" (the defendant in this cause) "may deem best and execute any and all instruments to effect any said actions..." the courts upheld the new administrator, the opponent's former attorney and denied this right to the defendant and disregarded the many cases formally cited by the Defendant in the court record that it is a cardinal principle of law that the intent of the Last Will and Testament must be given effect if this is at all possible. The Court denied this right by the simple expedient of using the word "denied" - no reasons - just denied. The record speaks for itself in the number of denials - no reasons ever given - just denials. The house in which Defendant (in this cause) was living was sold, the Defendant forcibly evicted, arrested and jailed because he resisted being thrown out of his father's house overwhich his father gave him the power to do as he deemed best and, in spite of the fact that at the time of eviction an Appeal had been filed and was then pending in Supreme Court of the State of Illinois. The eviction actions were initiated in another court.

The record speaks for itself in these cases. These and other incidents in these cases clearly demonstrate that callous, vicious attorneys can, in some of the courts in Illinois, deprive a man of his most fundamental rights as equally valid as the fundamental Constitutional right to be heard in this case and with equal callous disregard for the law and a man's rights.

Returning to the present case, the action of the court implies in effect that a man can be guilty without allowing him to present contrary evidence. It implies that allegations can be taken at face value without proof. It implies that no circumstances ever exist or need be examined that would make the action of a Plaintiff unwarranted. It implies that the law of the land is determined and not merely interpretated by a Judge if he so desires. The validity of these implications are self evident.

The sole, and only, issue of this appeal is whether judgment against the Defendant can be rendered and enforced denying Defendant's request to set the case for trial so that the allegations against him may be proven and so that Defendant may present evidence in his behalf before judgment is rendered. Defendant had filed a denial of all charges against him. Defendant was not given the hearing which he requested. The case was not set for trial and the Defendant was not allowed to present contrary evidence in his behalf. The Defendant in effect was denied Due Process of Law guaranteed to every citizen under Article V of the United States Constitution.

STATE EMT PF FACTS recounts the proceedings and presents the sequence of events which clearly establishes that Defendant's fundamental rights are being denied. These statements speak for themselves as eloquent argument and show that Plaintiff's attorneys are attempting to deprive Defendant of his most fundamental Constitutional right by submitting a documentary cloak of legalized respectability and avoiding the real issue

that Defendant was not granted a hearing. This sheer vastness of this cloak of respectability, a motion and an attorney's affidavit of approximately 7000 words, is reviewed point by point in the Statement of Facts and refuted therein in order to avoid repetition of each point in this section. The arguments presented therein are incorporated as Argument in this section by reference. Nowhere, but nowhere, in any of the Plaintiff's attorneys' arguments do they state that Defendant was granted a hearing or had the allegations proven against him or that Defendant was allowed to present a defense. They resort to referring to the statement which they inserted into the order which reads: "the court having heard evidence and being fully informed" implying that Defendant's rights were preserved. They ignore Defendant's very strong objections (which is part of the record) that he was denied a hearing and that their act of incorporating these words in the order represents a travesty of justice.

Defendant submits the following additional arguments in light of the facts recounted in the STATEMENT OF FACTS.

(1) No citizen can be denied the right to be heard in his own defense prior to judgment. Is it fundamental to Due Process of Law that the Defendant has the right to have the allegations proven against him. Defendant has the right to present evidence in his own behalf to refute the allegations against him, a right guaranteed to every citizen by the Constitution of the United States. No Judge is entitled to disregard a citizen's request to set case for a hearing and render judgment as if the citizen did not have this right.

(2) Opposing attorneys are not entitled to foster aid or abet in the denial of his opponent's right to be heard for in doing that they become guilty of operating a confidence game, shielding one another and the courts. Those engaged in such practices become all the more guilty themselves because they are officers of the Court which is society's instrument to combat unjust and Unconstitional practices.

(3) Since a man has the right to represent himself in the courts, he should also have the right to equal treatment and protection under the law. A man who represents himself cannot be considered fair game for lawyers who consider any act to deprive him of his Constitutional rights to be heard before judgment is rendered for example, as being justified. The rights of a poor man, or an educated rich man whose wife has taken his life savings from him, leaving him to starve in the streets shall be considered no less respectable under the law even though he has no attorney to represent him. The right of a man to obtain justice should not be dependent on his ability to afford and retain competent counsel.

(4) Plaintiff's counsel is not entitled, after delaying Defendant's initial appeal for approximately one year by requesting nine continuances for an extension of time for the purpose of filing his opposing briefs, to then introduce as "evidence" a Supplementary Record nearly one year after they should be admitted according to the rules when such Supplemental Record refers to events beyond the date Defendant's Notice of Appeal was filed. This

record cannot, therefore, be related to the subject of Defendant's Appeal. This Supplemental Record relates to later efforts of Plaintiff's counsel to enforce the decree and Defendant's reluctance to submit to the unconstitutional procedures by which the decree was entered. This presentation is clearly in the nature designed to discredit Defendant's character in the eyes of the court by reference to later acts of the Defendant which are interpreted by Plaintiff's counsel as contempt for the court and, in effect, implies that a citizen's character has some bearing on his fundamental Constitutional right to a hearing before judgment.

(5) Plaintiff's counsel is not morally or legally entitled to present a motion to dismiss Defendant's appeal together with supporting Affidavits and Memorandum to the Appellate Court, a total of 21 pages and an estimated 7000 words in a form which makes it equivalent to Appellee's Brief for the purpose Defendant contends of obtaining an immediate dismissal of the appeal since motions are considered immediately. An Appellee's Brief would have allowed Defendant time to digest the mass of information and submit his reply brief in return. The Appellate Court dismissed Defendant's appeal on Plaintiff's Motion just eleven (11) days after the Motion was presented. The court disregarded Defendant's telegram shown in Appendix C which states that Plaintiff's counsel is attempting to mask the real issue that Defendant's fundamental Constitutional right was being denied.

(6) Plaintiff's counsel is not entitled to use the "Affidavit" for arguments and conclusions as to why the appeal should be dismissed

as shown in detail in the Statement of Facts. He is not entitled to insert observations and conclusions that were not in evidence in the court proceedings and which are designed to discredit Defendant's character. The fact that Plaintiff's attorney presents the Affidavit in his name("Affidavit of ATTORNEY ROBERT JAY NYE...etc.") rather than in the name of the Plaintiff suggests that he may no longer be truly representing the Plaintiff but rather taking a personal interest on the issues resulting from the appeal.

(7). Opposing counsel and the judge do not have the moral or legal right to order and force the Defendant to pay Plaintiff's counsel $1250.00 plus $250.00 costs in advance so that Plaintiff may fight Defendant's Appeal to be heard when they know that Defendant is fighting for his most basic Constitutional right which they denied him. They are not entitled by the canons of decency to use a monetary club as a weapon to force a man to relinquish his most fundamental Constitutional right.

(8) Opposing counsel appearing before another judge who has no knowledge of the case do not have the moral and legal right to have an order entered for the arrest of the Defendant for Contempt of Court after Defendant has filed his Notice of Appeal pleading that his fundamental Constitutional ri hts were denied by an act of the same opposing counsel. Is the Defendant guilty for avoiding arrest when he knows, from prior action of the very same courts, that this arrest would totally prevent him from appealing to a higher court for his basic Constitutional right and would

force the will of the court based on unconstitutional procedures upon him?

(9) Opposing counsel is not entitled to present motions to the court to dismiss an Appeal of a man fighting to be heard in his own defense on the basis that:

"Defendant-Appellant is not entitled to maintain this Appeal by reason of his contempt for failure to obey the orders of the Court".

when the court, itself, in issuing these orders had the utmost contempt for a citizen's fundamental right to be heard before judgment was rendered and that this so-called contempt of the court which, from Defendant's point of view, was a legitimate refusal to obey court orders based on unconstitutional procedures does not excuse the court's denial of Defendant's right to be heard prior to judgment.

(10) Opposing counsel is not entitled to argue that Defendant should be denied the Appeal by generalizing in very legalistic phrases that:

a. Defendant's Brief failed to comply with requirements of the court.
b. That propriety was not established II
c. That Appellant has failed to abstract pleadings. V
d. That Appellant has failed to include a report of proceedings and has failed to abstract evidence. IV
e. That the order appealed from was not a final and appealable order. III

when, in fact, Defendant's Appeal clearly stated in his original brief and argument on Appeal in unmistakable terms that the only issue is his right to be heard in his own

defense, cited the inviolable Due Process requirement clause of the United States Constitution Article V as amended, and listed cases by name and number opinions stating that the right to be heard, when requested, is fundamental and cannot be denied, followed the rules of the court, provided the abstract to the record and pleadings such as it was considering that no hearing was granted and abided by the rules, all to establish the fact that a hearing was denied.

(11) Opposing counsel is not entitled to argue that Defendant's Appeal must be dismissed because

> "Defendant-Appellant, by residing separate and apart, as a single person from Plaintiff-Appellee and by accepting the relief from normal marital obligations which the decree for divorce affords ..." VII

when, in fact, this is not in evidence in any of the court proceedings and is contrary to the fact that Plaintiff refused to accompany Defendant back to Illinois thereby deserting the Defendant and by the fact that Plaintiff's allegations and representation that Defendant was capable of doing her harm. She really feared his reaction to her taking their life savings to herself. This statement on the part of Plaintiff's attorneys has no bearing on whether a man has the right to be heard in his own defense or not but rather is in the nature tending to discredit the Defendant as being unworthy of being given the constitutional guarantee which even a criminal enjoys until proven guilty. This kind of deliberate lie can only be refuted by granting the Defendant a hearing.

(12) Opposing counsel is not entitled to argue that Defendant's Appeal must be dismissed because

"Defendant-Appellant seeks to collaterally attack a decree of a sister-state in violation of the full faith and credit clause of the United States Constitution." (emphasis added) VIII

For what does this have to do with the Defendant's right to be heard in his own defense and why, if evidence warrants, cannot any decree be attacked anytime, anywhere, any place, if the interests of justice are served thereby?

(13) Opposing counsel is not entitled to argue that the Defendant's Petition for Appeal as a Matter of Right must be stricken and dismissed from the Supreme Court of Illinois

"because this is not a case in which a question under the Constitution of the United States or of this State arises for the first time."

or that

"His Petition for Appeal as a Matter of Right" does not raise or even purport to raise a constitutional question for the first time...."

or that

"Petitioner has failed to include in his Petition any argument as to why appeal to the Supreme Court lies as a matter of right." III (page 7)

when a fundamental denial of rights to Due Process under the United States Constitution is involved and Defendant cannot now get justice in any other manner except by an Appeal to the United States Supreme Court. The members of the lower courts are involved in suppressing the truth disregarding the evidence itself with intent to make it appear

this Defendant has no case whereas, in fact, they are covering up an unwarranted unconstitutional procedure of members of the court. Rather than face the truth, it would appear that the courts have decided that one man, however honest and right, and regardless of the damage to his character is expendable to preserve the outward appearance of respectability of the courts and its legal members.

(18) Opposing counsel does not have the moral or legal right to argue that Defendant's Appeal must be

> "stricken and dismissed or alternatively denied because it asserts scandalous and impertinent matter of and concerning Plaintiff-Respondent and her attorneys, without cause or basis thereof."

for this has no bearing whatever on a man's right to be heard. As for the "scandalous and unjust" charges, I repeat that any officer of the court denying any citizen of the right to present a defense in his behalf in a court of law whether appearing pro-se, or not, to the extent that that man must appeal to the highest court in the land to gain the most fundamental right of which even a child is aware is contemptible and deserves rebuke and denunciation for his efforts by all just men.

(19) The Supreme Court of the State of Illinois was in error to treat Defendant-Appellant's "Petition for Appeal as a Matter of Right" (wording required under the new rules) as a Petition for Leave to Appeal and then deny the "Leave to Appeal" as if to imply that Defendant did

not have the Constitutional right to appeal?

(20) By dismissing Defendant's appeal the Appellate Court of Illinois "denied Defendant's fundamental Constitutional right to a hearing before judgment. Also by denying "Leave to Appeal" the Supreme Court of the State of Illinois denied Defendant's fundamental Constitutional rights. The Supreme Court of Illinois added injury by assessing costs to the Defendant for the privilege of fighting for a basic constitutional right guaranteed to every citizen of these United States.

FOR THIS case is extremely simple and the facts can be easily verified.

Plaintiff's counsel, MR. BERNARD KAUFMAN, brought the case before JUDGE HYMAN FELDMAN who was not assigned to hear Foreign Decrees. The Judge granted Plaintiff's prayer of relief in her complaint disregarding Defendant's request to be heard and set date for trial. The denied allegations were not proven. The Judge merely accepted Plaintiff's counsel's word and issued his order. Defendant was not allowed to present a defense. The proceeding was over in very few minutes.

Defendant's objections to this action were filed in the courts within hours of the proceedings and unmistakably establishes that Defendant's rights under the United States Constitution were denied.

The subsequent actions of the Judge and opposing counsel in this case clearly establish that they were actively engaged in

denying the Defendant his most fundamental right under the Due Process of Law clause of the United States Constitution.

The Defendant should have been allowed to present and prove the following facts in his own defense as reasons why the Florida divorce decree should not be entered in Illinois.

(a) The divorce decree was obtained by the Plaintiff in Florida after the Plaintiff took to herself all of Plaintiff's and Defendant's life savings, which were held in joint accounts for twenty-one (21) years of married life, leaving Defendant in Illinois without a job and totally incapable of presenting a defense. There was approximately $25,000.00 in cash when Defendant left Florida to fight a just cause in his father's estate in Illinois.

(b) That Plaintiff had no true grounds for divorce, but that rather she would not, or could not, understand Defendant's actions in defense of his honor and integrity in the court actions in Illinois and put her personal desires to stay in Florida before her husband's honor, deserted him in his hour of need, refused to go back to Illinois with him, and made it impossible for him to communicate with his sons and turned them against him as if he were at fault.

(c) The decree was based on total misrepresentation as to Defendant's character and his motivations, his love for his family; Plaintiff having become extremely fearful of what the Defendant would do to her after she took all their money to

herself leaving him without a job and penniless, charged with a potential vicious character capable of doing her harm when, in fact, he had never in his life harmed anyone and when, in fact, he was doing nothing but fighting for a just cause and its reflection upon his honor and integrity, Plaintiff did not understand.

(d) The decree was obtained in Florida after Defendant, in Illinois, borrowed $100.00 to retain an attorney by phone in Florida one day before the trial and that that attorney stated he could not get a continuance in the Florida courts to allow him to confer with his client to see that he might adequately defend him or allow the Defendant time to get back on his feet financially and appear in court to refute the charges. Apparently, a man without money is not a worthy client to really fight for.

(e) The decree was based on lies under oath as to Defendant's residence which was represented as being Florida when, in fact, he was then a resident of Illinois and the extent of Plaintiff's wealth in thousands of dollars - she claimed she was without funds even though she had transferred all the joint bank accounts to herself.

(f) The decree makes no provision for disposition of real property such as for example the two automobiles which Defendant provided for the enjoyment of both Plaintiff and Defendant. The Florida court assessed costs and granted alimony and support money when, in fact, it could not know of Plaintiff's assets in the face of her lie under oath, or Defendant's debts which he incurred in order to survive and

get back on his feet.

Defendant was at least entitled to review those terms of the divorce decree adversely affecting the Defendant and entered when he could present no defense because of Plaintiff's actions.

CONCLUSION

Defendant respectfully submits that the Court cannot escape the conclusion that Defendant's right to a hearing prior to judgment has been denied to him in violation of the Due Process of Law provision under the United States Constitution Article V as amended. The evidence is simple and clear. Defendant is entitled to have the Order entered against him without a hearing vacated and all orders against Defendant entered as a result of this Order also vacated. Defendant is entitled to a full and complete hearing on the Motion on which the appealed Order was entered, and is entitled to recover all costs expended in his effort to gain his Constitutional rights which were denied to him by Plaintiff's counsel.

No man can be presumed guilty of wrong doing or lacking in character on the mere allegations of any other man. True justice can be obtained in the courts only on judicial decisions based on evidence and not on suppositions or presumptions. Every citizen of the United States is entitled to a hearing before judgment. Honest men will not suffer injustices if the courts scrupulously adhere to this principle. Defendant requests the United States Supreme Court to uphold this principle in this case. Specifically, Defendant requests HONORABLE JUDGES of the Supreme Court of the United States by way of relief that it remand the case to the lower courts with instructions to:

1. Vacate the Order of the Circuit Court of Cook County, State of Illinois, dated September 7, 1965 in Case No. 65 CH 2830 enrolling the Florida decree

as an Illinois Decree.

2. Grant the Defendant a full and unabridged hearing on Plaintiff's Motion to enroll the Florida decree as an Illinois decree.

3. Charge all costs to the Plaintiff or, more properly, to her attorneys.

With the exception of charging the costs to the attorneys, these items were asked for by way of relief in the original Brief and Argument. The court will please note that later documents filed in the upper courts were not signed by the Plaintiff but by "her attorneys" who are the ones responsible for denial of Defendant's Constitutional rights to a hearing before judgment. Defendant respectfully submits further that all orders based on the order being appealed should also be vacated.

Respectfully submitted

Edward Paulaitis

EDWARD PAULAITIS
appearing pro-se
2643 W. 71st St.
Chicago Illinois

APPENDIX A

IN THE CIRCUIT COURT
OF
COOK COUNTY, ILLINOIS

COUNTY DEPARTMENT
CHANCERY-DIVORCE DIVISION

NORINE PAULAITIS

v.

EDWARD PAULAITIS

No. 65 CH 2830

Entered September 7, 1965

ORDER

This matter having come up on motion of NORINE PAULAITIS for hearing on a Complaint to establish or enroll a Decree of Florida and other relief, and the Defendant having been personally served with summons and having filed his appearance, and Answer to the Complaint filed herein, due notice of this hearing having been served upon the Defendant, the Court having heard evidence, and being fully informed,

IT IS DECREED AS FOLLOWS:

That the Decree of the State of Florida

attached herete and attached te the Complaint filed herein as Exhibit A be and the same is hereby established and enrolled as an Illinois Decree.

ENTER:

HYMAN FELDMAN
Judge

APPENDIX B

IN THE CIRCUIT COURT
OF
COOK COUNTY, ILLINOIS

NORINE PAULAITIS

v. NO. 65 CH 2830

EDWARD PAULAITIS

ORDER

This cause coming on to be heard upon Petition of EDWARD PAULAITIS heretofore served upon BERNARD KAUFMAN on September 8, 1965 by certified mail:

The Court finding that EDWARD PAULAITIS has not appeared to present said Petition:

The Court also having received a copy of said Petition

It is hereby ordered that the Motion of EDWARD PAULAITIS is stricken from the call.

ENTER: HYMAN FELDMAN
Judge

APPENDIX C

WESTERN UNION TELEGRAM

1967 Jan 12 P.M. 5:36

(From) E. PAULAITIS
2643 West 71st St. Chgo.

(To) Each of the Appellate Court Judges
First District
Civic Center Chicago, Illinois

JUSTICE ARTHUR J. MURPHY

" HENRY A. BURMAN

" THADEUS V. ADESKO

COPIES TO: BERNARD KAUFMAN,
188 W. Randolph St. Chgo.

ROBERT J. NYE,
315 Plymouth Ct. Chgo.

NORINE PAULAITIS,
434 E. Washington Blvd.
Lombard, Ill.

RE CASE 51017 PAULAITIS VS PAULAITIS

There is only one issue in the case and that is whether a man has the right to be heard or not, A FUNDAMENTAL CONSTITUTIONAL RIGHT. I earnestly urge the Court to read my Brief to evaluate opposing counsels motion to dismiss

the appeal, opposing counsel is attempting to mask the real issue by extraneous matter and defamation of character. A dismissal and or charging costs to the Defendant would constitute a grave injustice and would be appealed. Your considered judgment is requested. This appeal has been pending over a year. A man is entitled to a trial without delay.

E. PAULAITIS, 2643 W. 71st St.Chgo

APPENDIX D

IN THE APPELLATE COURT
OF ILLINOIS

First District Case 51617

NORINE PAULAITIS, Plaintiff-Appellee

vs.

EDWARD PAULAITIS, Defendant-Appellant

(Filed June 16, 1967 1:39 P.M.)
in the Circuit Court of Cook County)

HONORABLE JOHN J. LYONS,
Presiding Judge

JOSEPH BURKE, Judge

JAMES R. BRYANT, Judge

LESLIE V. BECK, Clerk

JOSEPH I. WOODS, Sheriff

APPEAL FROM THE CIRCUIT COURT

The Court having considered the motion of Appellee for Leave to File a supplemental record in said cause instanter as per reasons filed herein, and being fully advised in the premises, doth grant said motion.

And the Court having also considered the motion of Appellee to dismiss the Appeal in the above entitled cause, as per affidavit filed herein, and having also considered the objection of Appellant to said motion, and now being fully advised in the premises, doth grant said motion. It is therefore ordered by the Court that the Appeal in the above entitled cause be, and the same is hereby dismissed out of this Court.

January 17 - AD 1967

I, LESLIE BECK, Clerk of Appellate Court, do certify this is a true copy of a final order entered in Appellate Court.

13th day of June, 1967